

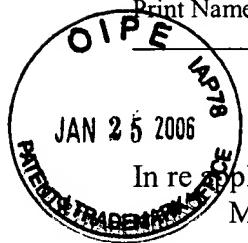
1FW 1642

CERTIFICATE OF MAILING

I hereby certify that this communication is being deposited with the U.S. Postal Service, with sufficient postage as First Class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria VA 222313-1450, on this 23<sup>rd</sup> day of January, 2006.

Wendy A. Frick

Print Name

Wendy A. Frick

In re application of:

Montano, et al.

)

Examiner: Yu, Misook

Serial No.: 09/972,032

)

Art Unit: 1642

Filed: October 5, 2001

)

Confirmation No.: 2885

For: **MODULATORS OF ANTESTROGEN**  
**PHARMACOLOGY**

)

Attorney Docket No.: 27708/04003

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON**  
**FAILURE TO RECEIVE OFFICE ACTION**

Mail Stop Petition  
 Commissioner of Patents  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450

Dear Sir:

Applicants, through their attorneys, hereby Petition the Commissioner to withdraw the holding of abandonment for the above-identified application. A Notice of Abandonment was mailed by the Office on January 4, 2006, indicating the application was abandoned for failure to reply to an Office Action dated April 21, 2005. Applicants request withdrawal of the holding of abandonment based on the non-receipt of the Office Action. Furthermore, since Applicants did not receive the Office Action dated April 21, 2005, along with the Notice of Abandonment, Applicants request that the Office resend the Office Action and reset the due date for response.

In support of this petition, applicants present herewith:

- (1) a statement of facts;
- (2) a copy of the relevant docket sheets;
- (3) a copy of the Notice of Abandonment dated January 4, 2006; and
- (4) a check in the amount of \$130.00 as payment of the petition fee.

01/26/2006 TBE5H11 00000007 09972032  
 130.00 0P  
 01 FC:1464

If any additional fee is due with this petition, please charge our Deposit Account Number  
03-0172.

Respectfully submitted,

Date: January 23, 2006

By: Pamela A. Docherty  
Pamela A. Docherty, Reg. No. 40,591  
(216) 622-8416

**CERTIFICATE OF MAILING**

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Customer Number

**24024**



Wendy A. Frick

Print Name

Wendy A. Frick

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Where application of: ) Examiner: Yu, Misook  
Montano, et al. )  
Serial No.: 09/972,032 ) Art Unit: 1642  
Filed: October 5, 2001 ) Confirmation No.: 2885  
For: **MODULATORS OF ANITESTROGEN** ) Attorney Docket No.: 27708/04003  
**PHARMACOLOGY** )

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON**  
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Date: January 23, 2006

By: Pamela A. Docherty  
Pamela A. Docherty, Reg. No. 40,591  
(216) 622-8416



STATE OF MAILING

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Print Name Wendy A. Frick  
Wendy A. Frick

Customer Number

**24024**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:	)	Examiner: Yu, Misook
Montano, et al.	)	
	)	
Serial No.: 09/972,032	)	Art Unit: 1642
	)	
Filed: October 5, 2001	)	Confirmation No.: 2885
	)	
For: <b>MODULATORS OF ANITESTROGEN</b>	)	Attorney Docket No.: 27708/04003
<b>PHARMACOLOGY</b>	)	

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**STATEMENT OF PAMELA A. DOCHERTY**

Dear Sir:

I, Pamela A. Docherty, do hereby declare as follows:

1. I am the attorney of record and have primary responsibility for prosecuting the above-described patent application.
2. All correspondence received from the Patent Office relating to this application is forwarded to me by our docket clerk or one of her assistants.
3. I have reviewed the file for the above-described application and did not find an Office Action dated April 21, 2005, for the above-described application in the file.

4. I have reviewed my docket sheets for May of 2005. There is no entry on these docket sheets indicating that a response to a Notice of Missing Parts for the above-identified application was due on May 21, 2005. Copies of the relevant docket sheets are attached hereto.

5. I have no independent recollection of the receipt of an Office Action mailed on April 21, 2005, for the above-described patent application.

January 23, 2005  
Date

Pamela A. Docherty  
Pamela A. Docherty

## Due Date List By Date

Page: 1

19-May-2005 To 24-May-2005

Due Date	Action Due	Case Number/SubCase	Status	App Number	App Date	Attns
Indicator	CHG Matter	Country	Pat/Reg	Iss/Reg		
Action Type		Client				
19-May-2005	ANNUITIES DUE	0682101917			JSC	
Due Date		Germany			DHD	
RPM: TREMCO, INC. -		0682104639			PAD	
	<i>Title:</i>					
19-May-2005	ANNUITIES DUE	0682101917			JSC	
Due Date		France			DHD	
RPM: TREMCO, INC. -		0682104638			PAD	
	<i>Title:</i>					
19-May-2005	ANNUITIES DUE	0682101917			JSC	
Due Date		United Kingdom			DHD	
RPM: TREMCO, INC. -		0682104633			PAD	
	<i>Title:</i>					
19-May-2005	PCT INFORMALITY Follow Up Date	2647304277			JSC	
Due Date	PCT INFORMALITY	Patent Cooperation Treaty			DHD	
		2647304298			PAD	
	<i>Title:</i>					
20-May-2005	EXT IDS	1852504043 / P1			KJF	
Due Date		United States of America				
		1852504123				
	<i>Title:</i>					
20-May-2005	3RD EXTENSION	2491304003			PAD	
Due Date	US- MISSING PART	United States of America				
		2491304003				
	<i>Title:</i>					

Due Date List By Date

Page: 2

19-May-2005 To 24-May-2005

Due Date	Action Due	Case Number/SubCase	App Number Iss/Reg	App Date	Attns
Indicator	CHG Matter	Country			PAD
05-May-2005	RE: RECT OF 1ST O.A.?	Client			DHD
	STATUS CHECK		2897204000		
			United States of America		

21-May-2005  
Due Date  
SUPP IDs  
EP IDs  
2272704079 / D1  
United States of America  
2272704116  
PAD  
KJF  
JND

21-May-2005 SUPP IDS  
Due Date EP IDS  
2272704079 / D3  
United States of America  
2272704115  
PAD  
KJF  
JND

21-May-2005  
Due Date  
SUPP IDS  
EP IDS  
2272704114  
United States of America  
2272704114  
TJF  
JND  
KJF  
PAD

21-May-2005 National II (2 MOS TO FINAL)  
Reminder. 2272704147 Patent Cooperation Treaty  
2272704207 RRL

21-way~2003  
Due Date  
Foreign Filing  
11 MONTHLY PUBLICATION  
2272704243  
United States of America  
2272704243  
*Title:*

## Due Date List By Date

Friday, May 20, 2005

Page: 3

19-May-2005 To 24-May-2005

Due Date	Action Due	Case Number/SubCase	Status	App Number	App Date	Atty's
Indicator	CHG Matter	Country	Pat/Reg	Iss/Reg		
Action Type	EXT IDS	Client				
22-May-2005	EXT SRCH RPT DUE (FROM WIPO)	1852504090	United States of America	1852504133		
	<i>Title:</i>					
22-May-2005	Demand (19 months)	THE J.M. SMUCKER COMPANY	2641605041	Patent Cooperation Treaty	2641605268	
	<i>Title:</i>					
22-May-2005	EXT SRCH RPT DUE (FROM WIPO)	2647304271	Patent Cooperation Treaty	2647304296		
	<i>Title:</i>					
22-May-2005	Demand (19 months)	THE J.M. SMUCKER COMPANY	2721104078	Patent Cooperation Treaty	2721104124	
	<i>Title:</i>					
22-May-2005	DEMAND (19 MO)	Final	2721104078	Patent Cooperation Treaty	2721104124	
	<i>Title:</i>					
22-May-2005	Demand (19 months)	Final	2721104078	Patent Cooperation Treaty	2721104124	
	<i>Title:</i>					

## Due Date List By Date

Page: 4

19-May-2005 T<sub>0</sub> 24-May-2005

Due Date	Action Due	Case Number/SubCase	App Number Iss/Reg	Atty
Action Indicator	CHG Matter	Country	Status	PAD
Action Type	Client	Client	Pat/Reg	KJF
2022-May-2005	EXT SRCH RPT DUE (FROM WIPO)	2951904001	Patent Cooperation Treaty	

22-May-2005 Final DEMAND (19 MO) 2951904001 Patent Cooperation Treaty 2951904003  
PAD KJF KS

222-May-2005 Final Demand (19 months) 2951904001 Patent Cooperation Treaty PAD KJF

23-May-2005 Tax 11.5  
Due Date 0682100464 / C1  
RPM: DAY-GLO COLOR CORP  
United States of America 0682100487  
JSC PAD

23-May-2005 11 MO FFL/ELECT PUBLICATION 0682105668  
Due Date Foreign Filing United States of America  
RPM: TREMCO, INC. SEALANTS 0682105668

## Due Date List By Date

Friday, May 20, 2005

Page: 5

19-May-2005 To 24-May-2005

Due Date	Action Due	Case Number/SubCase	Status	App Number	App Date	Atty's
Indicator	CHG Matter	Country	Pat/Reg	Iss/Reg		
Action Type	2ND EXTENSION	Client				
23-May-05	US FINAL O.A.	United States of America				
		2272704083				
		<i>Title:</i>				
23-May-2005	MISSING PARTS	2272704186	United States of America			
	US-MISSING PART					
		2272704186				
		<i>Title:</i>				
23-May-2005	6 MO FFL/ELECT PUBLICATION	2272704292	United States of America			
	Foreign Filing					
		2272704292				
		<i>Title:</i>				
23-May-2005	Search Report Due (from WIPO)	2721104094	Patent Cooperation Treaty			
	Due Date					
		2721104139				
		<i>Title:</i>				
23-May-2005	Search Report Due (from WIPO)	2721104095	Patent Cooperation Treaty			
	Due Date					
		2721104138				
		<i>Title:</i>				
24-May-2005	RE: CRYSTAL HERBS & DESIGN	0682100760				
	POSSIBLE OPPO	Chile				
		MH				
		<i>Trademark:</i>				
24-May-2005	F/UP RE INSTR SENT	0682104061				
	CANADIAN MF	Canada				
	RPM: TREMCO,INC. - ROOFING	0682105527				
		<i>Title:</i>				

## Due Date List By Date

Friday, May 20, 2005

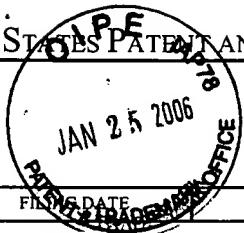
Page: 6

19-May-2005 To 24-May-2005

Due Date	Action Due	Case Number/SubCase	Status	App Number	App Date	Atty's
Indicator	CHG Matter	Country	Pat/Reg	Iss/Reg		
24-May-2005	CHG Matter	Client				PAD
	Article 19	1852504083				DHD
	PCT Search Report	Patent Cooperation Treaty				
		1852504127				
		<i>Title:</i>				
24-May-2005	3 MO FFL/ELECT PUBLICATION	1852504119	United States of America			PAD
Due Date	Foreign Filing	1852504119				DHD
		<i>Title:</i>				
24-May-2005	IDS	2272704281	United States of America			PAD
Due Date		2272704281				DHD
		<i>Title:</i>				
24-May-2005	3 MO FFL/ELECT PUBLICATION	2272704281	United States of America			PAD
Due Date	Foreign Filing	2272704281				DHD
		<i>Title:</i>				
24-May-2005	EXT IDS	2721104044 / P1	United States of America			PAD
Due Date		2721104106				DHD
		<i>Title:</i>				
24-May-2005	RE RCPT OF MISSING PARTS	2721104060	United States of America			PAD
Due Date	STATUS CHECK	2721104134				JND
		<i>Title:</i>				



UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILED DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,032	10/05/2001	Monica Montano	27708/04003	2885
24024	7590	01/04/2006	EXAMINER	
CALFEE HALTER & GRISWOLD, LLP 800 SUPERIOR AVENUE SUITE 1400 CLEVELAND, OH 44114			YU, MISOOK	
ART UNIT		PAPER NUMBER		1642

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**RECEIVED**

JAN 06 2006

D.C. IP. Dept.

**DOCKETED**

JAN 06 2006

DBC IP. DEPT.



**Notice of Abandonment**

Application No.

09/972,032

Examiner

MISOOK YU, Ph.D.

Applicant(s)

MONTANO ET AL.

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1.  Applicant's failure to timely file a proper reply to the Office letter mailed on 21 April 2005.
  - (a)  A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b)  A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c)  A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d)  No reply has been received.
2.  Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a)  The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b)  The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c)  The issue fee and publication fee, if applicable, has not been received.
3.  Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a)  Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b)  No corrected drawings have been received.
4.  The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5.  The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6.  The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7.  The reason(s) below:

Ms. Wendy Frick was notified on 12/27/05 that notice of abandonment would be mailed to applicant.

*Misook YU 12/27/05*

MISOOK YU, Ph.D.

Primary Examiner

Art Unit: 1642

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.